IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

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WRIT PETITION NO : 12801 of 2005

Between:

1. Sri D.Rangareddy s/o D.Lakshmi Reddy

aged about 36 years.

2. Smt D.Rajeswari Devi w/o D.Rangareddy

aged about 31 years.

3. Smt D.Mahalakshmamma w/o D.Lakshmi reddy

aged about 60 years.

4. P.M.Krishna reddy s/o Konda Reddy,

aged about 30 years.

All r/o Kottala village, Rajupalem Mandal, Kadapa District.

..... PETITIONERS

AND

1. The Manager, Group Temples, Proddutur,

kept in full Additional Charge of Sri Chennakesava,

Anjaneya and Eswara swamy temples, Kuluru village,

Rajupalem (M), Kadapa District.

2. Sri P.Narasimha Reddy s/o Konda reddy

aged about 45 years, Founder Trustee of Sri Chennakesava

Anjaneya and Eswara Swam Temples, Kuluru village,

Rajupalem Mandal, Kadapa District..

3. The Assistant Commissioner of Endowments, Kadapa,

Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, or direction more particularly a writ in the nature of writ of certiorari calling for the records relating to the impugned proceedings issued by the 1st respondent in notice dated 9.6.2005 contemplating to conduct public auction of the schedule mentioned lands belonging to Sri Chennakesava, Anjaneya and Eswara Swamy Temples, Kuluru village, Rajupalem Mandal along with the lands belonging to the petitioners i.e. petitioner No.1 owns an extent of Acs.0.70 cents, in SurveyNo.354/2, 2nd petitioner owns an extent of Acs.2.50 cents in Survey No.354/6, the 3rd petitioner owns an extent of Acs.0.13 cents in Survey No.354/2 and an extent of Acs.0.33 cents in Survey No. 354/6 and the 4th petitioner owns an extent of Acs.0.58 cents in Survey No.350/4 and an extent of Acs.0.50 cents in Survey No.354/7 as bad, illegal, arbitrary and the petitioners herein pray the same may be quashed.

Counsel for the Petitioner: MR.M.VIDYASAGAR

Counsel for the Respondent No.1: Sri V.Venugopal Rao

Counsel for the Respondent No.2: none appears

Counsel for the Respondent No3: GP FOR ENDOWMENTS

The Court at the stage of admission made the following:

ORDER:

The petitioners herein, four in number, question the action of the Manager of Sri Chennakesava, Anjaneya and Eshwaraswamy Temples at Kuluru village, Rajupalem Mandal, Kadapa District in seeking to conduct auction of lands in Survey No.350 and 354 and in auctioning several extents of land including certain extent of land belonging to the petitioners herein.

It is the case of the petitioners that they are the absolute owners and title-holders of certain extent of land in Survey No. 350 and 354. They rely on the pattadar

passbook and other title deeds issued by the revenue authorities to substantiate their contention that the said land was in possession of their family for the last more than hundred years. Their further case is that since these lands belong to them, the Manager of the first respondent institution, should have undertaken the exercise of demarcating the same, if at all the temple has any title on the suit schedule property.

Sri M.Vidyasagar, learned counsel for the petitioners, upon referring to page 13 of the material papers, states that the auction of lease is going to be held on 20th of this month and if the same is allowed, pursuant to the auction, the petitioners' lands will be leased out and they would be dispossessed and put to irreparable loss and hardship.

Sri V.Venugopal Rao, learned counsel appearing on behalf of the first respondent drawn my attention to Section 43(6) of the Endowments Act and also produced a copy of the extract of the register maintained thereunder. He submits that these lands actually belong to the temple and not the petitioners herein. He also refers to Section 87(6) of the Endowments Act in support of his contention that there is a presumption that the property belongs to the endowment and that the burden of proof in such cases would lie on the person who claims it to be otherwise.

I find substantial force in the said contention. Disputes regarding ownership and title are all the matters, which are not normally adjudicated in proceedings under Article 226 of the Constitution of India. The petitioners have an effective alternate remedy available, under Section 87 of the Endowments Act, to approach the Deputy Commissioner of Endowments and get their disputes adjudicated.

Sri M.Vidyasagar, learned counsel for the petitioners submits that he shall prefer an application to the Deputy Commissioner within two weeks from today invoking the jurisdiction of the Deputy Commissioner of Endowment under Section 87 of the Endowment Act. He further submits that in the interregnum, if his lands are leased out to third parties, the petitioners will be put to irreparable hardship.

This Writ Petition is disposed of recording the submission of Sri M. Vidyasagar, learned counsel for the petitioners that the petitioners shall submit their application under Section 87 of the Endowment Act, within two weeks from today, to the Deputy Commissioner of Endowment. The Deputy Commissioner of Endowment shall, after complying with the procedural requirement under Section 87 of the Endowment Act,

pass appropriate orders thereon within a period of two months from the date of receipt of the application submitted on behalf of the petitioners.

While the auction proceedings to be held on 20th of this month shall go on as scheduled, to the limited extent of land claimed by the petitioners' in the present writ petition as belonging to them, the auction proceedings shall not be finalized till orders are passed by the Deputy Commissioner of Endowment on the application filed by the petitioners.

The Writ Petition is accordingly disposed of.

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16-06-2005

kvrm

To

1. The Assistant Commissioner of Endowments, Kadapa,

Kadapa District.

2 CCs to G.P. for Endowments, High court Buildings, Hyderabad

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3. 2 CD copies.